



FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 12-108; DA 22-20; FRS ID 67126]

Accessibility Rules for Closed Captioning Display Settings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: FCC seeks to refresh the record on proposed rules intended to enable individuals who are deaf and hard of hearing to fully enjoy video programming through closed captioning.

DATES: Comments are due on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], and reply comments are due on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The full text of this public notice is available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat via ECFS and at <https://www.fcc.gov/document/media-bureau-seeks-refresh-record-closed-captioning-rules>. You may submit comments, identified by MB Docket No. 12-108, by any of the following methods:

- Federal Communications Commission's Web Site: <http://apps.fcc.gov/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: For further information, contact Michael Scurato (202-418-2083; Michael.Scurato@fcc.gov).

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's Public Notice, DA 22-20, released on January 10, 2022. In 2015, the Commission proposed rules that would require manufacturers of covered apparatus and multichannel video programming distributors (MVPDs) to make closed captioning display settings readily accessible to individuals who are deaf and hard of hearing and asked commenters to address the Commission's authority to adopt such rules under the Television Decoder Circuitry Act of 1990 (TDCA). The comment period closed nearly six years ago. To ensure that the Commission has the benefit of current information, including any developments relating to these issues since the release of the underlying *Second Further Notice of Proposed Rulemaking (Second Further Notice)*, 81 FR 5971 (Feb. 4, 2016), the Media Bureau invites parties to update the record on these issues.

The TDCA amended the Communications Act of 1934, as amended (the Act), to require that television receivers contain built-in decoder circuitry designed to display closed captioning and to require that the Commission's rules provide performance and display standards for such built-in decoder circuitry. The Commission subsequently adopted such standards for the display of closed captions on digital television receivers which allow users to customize the appearance of captions by changing the font, size, color, and other features of captions.

The Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) broadened the application of closed captioning display and functionality requirements to additional types of apparatus, beyond broadcast television receivers, to include any apparatus designed to receive or play back video programming transmitted simultaneously with sound. Pursuant to the CVAA, the Commission adopted performance and display standards for the broadened category of covered apparatus and in particular adopted functional requirements to ensure that consumers can modify caption display features on covered apparatus.

In 2015, the Commission issued the *Second Further Notice* in this docket, seeking comment on proposed rules that would require manufacturers and MVPDs to ensure that consumers are able to readily access user display settings for closed captioning on covered

apparatus. Since the Commission last invited comment on these issues, consumers and other stakeholders have raised ongoing concerns about difficulties consumers faced when attempting to access closed captioning display settings across a host of technologies and services.

Request for Additional Comment. Accordingly, the Media Bureau invites all stakeholders to update the record after reviewing the specific proposals, underlying analysis, and questions contained in the *Second Further Notice*, as well as the existing record in this proceeding. The *Second Further Notice* presented a host of issues that generated substantive discussion, including the Commission's authority pursuant to the TDCA to require that closed captioning display settings be readily accessible, the means by which the Commission would implement a requirement that consumers be able to readily access user display settings for closed captioning, and the extent to which section 303(u)(1) could be a source of authority to impose closed captioning requirements to all apparatus, as interpreted consistently with Commission precedent. The *Second Further Notice* further asked which entities should be responsible for compliance and, specifically, whether both manufacturers and MVPDs should be obligated to facilitate the ability of consumers to locate and control closed captioning display settings. The *Second Further Notice* also sought comment on the appropriate timeframe for requiring covered entities to ensure that closed captioning display settings are made readily accessible to consumers. Herein, the Media Bureau specifically seeks updated comment on these and other issues posed in the *Second Further Notice*.

Commenters are welcome to submit new or additional relevant information about the current state of the availability of hardware and software solutions designed to facilitate the activation and customization of closed captioning, and its ease of use. For example, to what extent are manufacturers and MVPDs currently "making caption display settings accessible via mechanisms reasonably comparable to a button, key, or icon," such as "a button on the remote or access through the first level of a menu," as noted in the *Second Further Notice*?

Initial Regulatory Flexibility Analysis. The *Second Further Notice* included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. 603, exploring the potential impact on small entities of the Commission's proposals. The Media Bureau invites parties to file comments on the IRFA in light of this request to refresh the record.

Filing Requirements. All filings responsive to this Public Notice must reference MB Docket No. 12-108. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters

(March 19, 2020).

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

Ex Parte Rules. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Thomas Horan,
Chief of Staff, Media Bureau.

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